IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

WP(C).No. 34470 of 2006(C)

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AGAINST THE ORDER DATED 16/09/2006 IN EP. 40 /2004 IN OS.85/2003 of MUNSIFF COURT,KATTAPPANA

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PETITIONER:

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V.J.JOSEPH, S/O.JOSEPH,
VAYALIPARA HOUSE, VAZHAVARA,
KATTAPPANA VILLAGE.

BY ADV. SRI.T.I.ABDUL SALAM

RESPONDENTS:

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1. THE FEDERAL BANK LTD.,
IDUKKI REP. BY ITS MANAGER.

2. ANNAMMA JOSEPH, W/O.JOSEPH,
VAYALIPARA HOUSE, VAZHAVARA, KATTAPPANA VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.SASIDHARAN NAMBIAR,J.**

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**W.P.(C)NO. 34470 OF 2006**

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**DATED THIS THE 1st DAY OF JANUARY, 2007**

**JUDGMENT**

Petitioner is second judgment debtor in O.S.85/03 on the file of Munsiff Court, Kattappana. This petition is filed under Article 227 of Constitution of India challenging Ext.P1 order passed by the executing Court settling the proclamation for sale and Ext.P2 order, dismissing the application filed by petitioner to stay the execution proceedings on the ground that the application under Order IX Rule 13 of Code of Civil Procedure to set aside the exparte decree is pending. Under Ext.P1 order, executing Court directed value of the attached property as claimed by petitioner shall be shown in the sale proclamation. Under Ext.P2 order, executing Court declined to grand the order of stay.

2. Learned Counsel appearing for petitioner submitted that subsequently the property was sold in Court auction sale. If so, petitioner is entitled to file an application under Order XXI Rule 89 or 90 seeking appropriate relief before the executing Court.

Petition dismissed.

**M.SASIDHARAN NAMBIAR,JUDGE**

Acd